

# OFFICE OF THE ATTORNEY GENERAL

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Honorable Sam E. Loftin  
Attorney for the City of Phenix City  
P. O. Box 2566  
Phenix City, Alabama 36868-2566

Municipalities - City Councilmen -  
Contracts - Conflict of Interest

City of Phenix City cannot  
purchase goods from business of  
which council member is general  
manager and vice president.

Dear Mr. Loftin:

Reference is made to the request by the City of Phenix City  
for an opinion of the Attorney General regarding the following  
questions:

"1. Is an office supply business pro-  
hibited from selling goods to the City if  
a City Council member is general manager  
of the business?

2. Is an office supply business pro-  
hibited from selling goods under a state  
bid contract to the City if a City Council  
member is general manager of the business?"

The questions should be stated in the converse. The  
question is whether the city may purchase goods from an office  
supply business if a city council member is vice president [as  
stated in a letter accompanying the Resolution of the City  
Council] and general manager of the business.

Each of your questions are to be answered in the negative.

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Attorney for the City of Phenix City  
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Phenix City is governed by a council-manager type of government. Section 9.06 of the city's charter states in pertinent part:

"Officers and employees not to be privately interested in City's contracts.--No member of the council, officer or employee elected or appointed shall be interested, directly or indirectly, in any contract for work or material, or the profits thereof, or services to be furnished or performed for the City, . . ."

This is similar to the state statutes prohibiting conflicts of interest for municipal officers found at Code of Alabama 1975, Section 11-43-12 and Section 11-43-53. These provisions state that no municipal officer shall be directly or indirectly interested in a contract, work or business the price or cost of which is paid from the municipal treasury.

As to whether a municipal officer may submit bids on municipal contracts, Code of Alabama 1975, Section 41-16-60 provides:

No member or officer of . . . the governing bodies of the municipalities of the state . . . shall be financially interested or have any personal beneficial interest, either directly or indirectly, in the purchase of or contract for any personal property or contractual service, nor shall any person willfully make any purchase or award any contract in violation of the provisions of this article.

It is the opinion of the Attorney General that the portion of the city charter previously quoted and the sections of Code of Alabama 1975 mentioned herein prohibit the City of Phenix City from purchasing goods from a business of which a council member is general manager and vice president.

Phenix City is not a Class 7 or Class 8 municipality as to come within Code of Alabama 1975, Section 11-43-12.1 which

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allows Class 7 and Class 8 municipalities to contract with the  
elected officers of the municipality.

Your question should be presented to the State Ethics  
Commission for consideration under the State Ethics Act.

I hope that your questions have been sufficiently  
answered.

If our office can be of further assistance, please do not  
hesitate to contact us.

Sincerely,

CHARLES A. GRADDICK  
Attorney General  
By:

A handwritten signature in cursive script, reading "Lynda K. Oswald".

LYNDA K. OSWALD  
Assistant Attorney General

LKO/dn